IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6769 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAMOTIBEN WD/O KISANBHAI CHENIASANSI

Versus

STATE OF GUJARAT

Appearance:

MR YATIN SONI for Petitioner

MR DN PATEL LD. AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 10/03/2000

ORAL JUDGEMENT

The detenu has filed this petition under Article 226 of the Constitution as she is detained by an order dated 13.8.99, Annexure-A ,passed by the District Magistrate, Dahod, in exercise of powers conferred under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985.

The grounds of detention are placed on record vide Annexure-C dated 30.8.99. It is clear from the grounds of detention that 10 cases have been registered against the detenu. It appears that the detenu is engaged in preparing country liquor. The huge quantity of wash which is required to be used for the purpose of preparing country liquor was found from the detenu on three occassions namely on 11.2.96, 24.5.96 and 9.6.96. The offences have been registered against the detenu under the Bombay Prohibition Act. The detenu was also found in possession of english liquor on six occassions. On 23.8.96, she was found with 487 bottles of liquor, valued at Rs. 17575/-, on 2.1.97, she was found in possession of 12 bottles of english liquor, on 11.1.97 she was found in possession of 381 bottles of english liquor valued at Rs. 13335/, on 10.5.98 she was found in possession of 1440 bottles of english liquor valued at Rs. 13640/, on 15.12.98, she was found in possession of five bottles of whisky valued at Rs.150/-,on 16.2.99,she was found in possession of 546 bottles of english liquor valued at Rs. 20280/, and on 17.3.99 she was found transporting without pass or permit, 56 packets of english liquor of different make, valued at Rs. 80640/in the vehicle. The detaining authority was satisfied that the detenu is a bootlegger and is indulging in naferious activities. With a view to carry on this illegal activities, she has created an atmosphere of terror and people are not coming forward to give evidence against the detenu. The detaining authority arrived at the subjective satisfaction that on account of the fact that the detenu is a bootlegger and 10 cases are registered against her, she is required to be detained.

Without examining the legality in the grounds of detention, this petition is required to be allowed only on the short ground that the representation made by the detenu on 1.9.99 has not been disposed of promptly by the State Government, the copy of the said representation is produced at page 28 of the petition. Neither the State Government nor the detaining authority has filed affidavit and, therefore,the contention raised by the detenu in this regard has remained uncontroverted. As the detenu's representation has not been disposed of in accordance with law, this petition is required to be allowed by holding that the continued detention of the detenu is bad in law. In view of what is stated hereinabove, this petition is required to be allowed.

In the result, this petition is allowed. The detenu-Samotiben wd/o Kisan Chenia Sansi is ordered to be

released forthwith, if she is not required for any other case. Rule is made absolute with no order as to costs.

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mandora/